

CONNELL FOLEY LLP

ATTORNEYS AT LAW

85 LIVINGSTON AVENUE
ROSELAND, NJ 07068
(973) 535-0500
FAX: (973) 535-9217

OTHER OFFICES

HARBORSIDE FINANCIAL
CENTER
2510 PLAZA FIVE
JERSEY CITY, NJ 07311
(201) 521-1000
FAX: (201) 521-0100

888 SEVENTH AVENUE
9TH FLOOR
NEW YORK, NY 10106
(212) 307-3700
FAX: (212) 262-0050

THE ATRIUM, SUITE E
309 MORRIS AVENUE
SPRING LAKE, NJ 07762
(732) 449-1440
FAX: (732) 449-0934

PORT LIBERTÉ
23 CHAPEL AVENUE
JERSEY CITY, NJ 07305
(201) 521-0200
FAX: (201) 706-2160

LIBERTY VIEW BUILDING
457 HADDONFIELD ROAD
SUITE 230
CHERRY HILL, NJ 08002
(856) 317-7100
FAX: (856) 317-7117

1500 MARKET STREET
12TH FLOOR
EAST TOWER
PHILADELPHIA, PA 19101
(215) 246-3403
FAX: (215) 665-5727

COUNSEL

BERNARD M. HARTNETT, JR.*
JOHN W. BISSELL
EUGENE J. CODEY, JR.
FRANCIS J. ORLANDO
FRANCIS E. SCHILLER*
EUGENE P. SQUEO*
BRIAN P. MORRISSEY*
NOEL D. HUMPHREYS*
ANTHONY ROMANO II*
KARIN I. SPALDING*

JODI ANNE HUDSON*
RICHARD A. JAGEN
JASON E. MARX*
ALEXIS E. LAZZARA
GAIL GOLDFARB*
THOMAS VECCHIO+
DANIEL B. KESSLER*
ROBERT A. VERDIBELLO*
MICHELE T. TANTALLA*
PHILIP W. ALLOGRAMENTO III*

DOUGLAS J. SHORT*
MARK A. FORAND*
OLIVIA F. CLEAVER+
STEPHEN D. KESSLER
CHRISTOPHER ABATEMARCO*
ANTHONY J. CORINO*
INGRID E. DA COSTA
LEO J. HURLEY*
RUKHSANAH L. SINGH*
BRITTANY E. MIANO*
STACIE L. POWERS*
NICOLE B. DORY*
MICHAEL BOJBASA-
CHRISTOPHER M. HEMRICK*
SUSAN KWIATKOWSKI*
MELISSA D. LOPEZ
JASON D. FALK*
BROOKE E. BOWLES*
ALLYSON M. KASSETTA*
MEGHAN K. MUSSO*
BRENDAN W. CARROLL*
ELEONORE OFOSU-ANTWI*
EDMUND J. CAULFIELD*
SYDNEY J. DARLING*

NEIL V. SHAH*
STEPHEN R. TURANO*
STEVEN A. KROLL*
ROBERT M. DIPISA*
MATTHEW A. BAKER+
MICHAEL J. CREEGAN*
THOMAS M. BLEWITT, JR.+
ZULFIA T. CORRIGAN-
MARY HURLEY KELLETT*
DANIELLE M. NOVAK+
KATELYN O'REILLY
JAMES E. FIGLIOZZI-
MATTHEW D. FIELDING*
MARIEL L. BELANGER*
NICHOLAS W. URCIUOLI
GENEVIEVE L. FAIRCLOUGH
CHRISTINA SARTORIO*
THOMAS M. WESTER
DANIEL E. BONILLA*
CAITLIN PETRY CASCINO*
THOMAS FORRESTER, JR.
KARA M. STEGER-
JOSEPH L. LINARES*

JOHN A. PINDAR (1969)
GEORGE W. CONNELL (2005)
ADRIAN M. FOLEY, JR.
GEORGE J. KENNY*
KENNETH F. KUNZMAN
SAMUEL D. LORD (2012)
RICHARD D. CATENACCI
RICHARD J. BADOLATO*
PETER D. MANAHAN
JOHN B. MURRAY
MARK L. FLEDER
KEVIN J. COAKLEY
THOMAS S. COSMA
KATHLEEN S. MURPHY
PATRICK J. MCAULEY
PETER J. PIZZIT*+
KEVIN R. GARDNER
ROBERT E. RYAN
MICHAEL X. MCBRIDE*
VINCENT J. TORNA-
JEFFREY W. MORYAN*
EDWARD S. WARDELL
PETER J. SMITH*
WILLIAM P. KRAUSS
BRIAN G. STELLER
PHILIP F. MCGOVERN, JR.
KAREN PAINTER RANDALL
LIZA M. WALSH
JOHN P. LACEY*
MICHAEL J. CROWLEY-
TIMOTHY E. CORRISTON*
PATRICK J. HUGHES*+
JAMES C. MCCANN*
JOHN D. CROMIE
ANGELA A. IUSO*

WILLIAM T. MCGLOIN*
BRENDAN JUDGE
STEPHEN A. URBAN
CHARLES J. HARRINGTON III+
FRANK T. CARA*
STEPHEN V. FALANGA*
TRICIA O'REILLY*
ANTHONY F. VITIELLO*+
MARC D. HAEFNER
JONATHAN P. MCHENRY
BRAD D. SHALIT*
M. TREVOR LYONS*
CRAIG S. DEMARESKI*
W. NEVINS MCCANN*
THOMAS J. O'LEARY*
MITCHELL W. TARASCHI
MICHAEL A. SHADIACK
OWEN C. MCCARTHY*
PATRICIA A. LEE*+
AGNIESZKA ANTONIAN*
MICHAEL MICELI
NEIL V. MODY*
STEVE BARNETT*
THOMAS M. SCUDERI*
JOSEPH M. MURPHY*
NANCY A. SKIDMORE*
CHRISTINE S. ORLANDO
JENNIFER C. CRITCHLEY*
PATRICK S. BRANNIGAN*
CHRISTINE I. GANNON*
ANDREW C. SAYLES*
WILLIAM D. DEVEAU*
HECTOR D. RUIZ*
MEGHAN BARRETT BURKE*

PLEASE REPLY TO ROSELAND, NJ

July 16, 2014

*ALSO ADMITTED IN NEW YORK
+ALSO ADMITTED IN PENNSYLVANIA
-ONLY ADMITTED IN NEW YORK

VIA ECF AND FIRST-CLASS MAIL

Honorable Joel A. Pisano, U.S.D.J.
U.S. District Court for the District of New Jersey
Clarkson S. Fisher Federal Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: Depomed, Inc. v. Actavis Elizabeth LLC, et al.
Civil Action No. 12-1358 (JAP) (TJB)

Dear Judge Pisano:

We, together with Axinn, Veltrop & Harkrider LLP, represent Defendants Actavis Elizabeth LLC and Actavis LLC (collectively, "Actavis") in the above-referenced matter. We submit this letter to apprise the Court of a recent decision of the United States Patent and Trademark Office ("PTO") that there is a reasonable likelihood that the claims of U.S. Patent No. 6,635,280 ("the '280 patent") asserted against Actavis in the above-referenced matter, except claim 12, are invalid as obvious under 35 U.S.C. § 103. This decision of the PTO is attached as Exhibit A. We understand that the Court will be issuing its preliminary judgment shortly, but feel obligated to bring this decision to the Court's attention inasmuch as it pertains to the validity of all but one of the asserted claims of the '280 patent in this case.

More specifically, another party accused of infringement of the '280 patent, Purdue Pharma L.P. ("Purdue"), recently petitioned the PTO to review the validity of a number of claims of the '280 patent under the PTO's new *inter partes* review ("IPR") procedures. See 35 U.S.C. §§ 311-319. In its July 10, 2014 decision instituting an IPR, the PTO found that Purdue demonstrated a

July 16, 2014
Page 2

“reasonable likelihood that it would prevail in showing the unpatentability” of each of the claims of the ‘280 patent asserted against Actavis in this litigation, except claim 12. (Ex. A at 2, 17-25.) The PTO is required to issue a final determination on the validity of these claims within one year, i.e., July 10, 2015 (the IPR may be extended by no more than six months if good cause is shown). 35 U.S.C. § 316(a)(11).

We thank Your Honor for your consideration of this matter and are available should Your Honor or Your Honor’s staff have any questions.

Respectfully submitted,

s/ Liza M. Walsh

Liza M. Walsh

Enclosure

cc: All Counsel of Record (via ECF)